



HOUSE OF COMMONS  
LIBRARY

## BRIEFING PAPER

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# Child maintenance: how it is calculated under the 2012 CMS scheme (GB)

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## Summary

This House of Commons Library briefing note sets out how the Child Maintenance Service (CMS) calculates the amount of child maintenance payable under the 2012 statutory child maintenance scheme.

There are five different rates used to calculate the amount of child maintenance payable, with the rate applied depending on the non-resident parent's gross weekly income, whether they (or their partner) claim certain welfare benefits, and the circumstances of the non-resident parent.

The standard method of calculating child maintenance does not take into account, for example, the taxable unearned income of the non-resident parent or certain expenses that a non-resident parent might incur. In such cases, an application for a "variation" can be made to the CMS – for more information, see the Library briefing paper [Child maintenance: variations, including "unearned income" rules \(UK excluding NI\)](#).

This note applies to Great Britain only (i.e. United Kingdom excluding Northern Ireland).

## 1. The different statutory child maintenance schemes

There are currently three statutory child support schemes operating in Great Britain under the Child Support Act 1991:

- the “2012 scheme” (also known as CS3) – this is the current scheme and open to new applicants. It is administered by the Child Maintenance Service (CMS).
- the 1993 and 2003 schemes – these are closed to new applicants. All cases with ongoing maintenance liabilities have been transferred to the 2012 scheme. Only “arrears-only” cases continue to operate on the legacy scheme although the Department for Work and Pensions (DWP) is implementing a large-scale write-off of arrears that accrued under these schemes. These legacy schemes are administered by the Child Support Agency (CSA).

The DWP is the responsible Government department.

This note only considers the rules for the current, 2012, statutory scheme.

## 2. Quick introduction to key child maintenance terminology

- “Non-resident parent” – also referred to as the “paying parent” in CMS literature, is a parent of the child; the non-resident parent does not live with the child;
- “person with care” – also referred to as the “receiving parent” in CMS literature, is the person who “actually and usually” provides day-to-day care of the child. The person with care does not have to be a parent of the child or someone with legal “parental responsibility” for the child.<sup>1</sup> It could, for example, be an older sibling that the child is living with, or a friend of the child. It cannot be a local authority (e.g. where a child is looked after in local authority care) or someone with whom a local authority has placed a child (unless it is the child’s parent);
- the “qualifying child” – the child for whom child maintenance is payable. For child maintenance purposes the child has to be either: under 16 years of age; or aged 16 to 19 years inclusive and either Child Benefit is payable in respect of them (even if it is not actually paid), or they are receiving full-time, non-advanced education (e.g. A-levels). A young person does not count as being a qualifying child if they are or have been married or in a civil partnership;
- “relevant child” (or “relevant other child”) – a child other than a qualifying child for whom Child Benefit is payable to the non-resident parent (or their partner). This applies even if the local authority is looking after the child in question but Child Benefit remains payable for them;
- “gross weekly income” – the non-resident parent’s income calculated as a weekly amount before any deductions for tax but after any contributions to approved personal or occupational pension schemes have been made.<sup>2,3</sup>

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<sup>1</sup> For information on “parental responsibility”, see the Library briefing paper [Children: parental responsibility - what is it and how is it gained and lost \(England and Wales\)](#).

<sup>2</sup> Child Poverty Action Group, Child Support Handbook 2019/20, 2019, pp7–14, 62–63 and 65

<sup>3</sup> For more information on what “gross weekly income” is for child maintenance purposes, see the Library briefing paper [Child maintenance: income in the CMS formula \(including why gross income is used, and annual reviews\)](#).



## 3. Summary of the rates for determining child maintenance and other factors

### 3.1 The five rates

There are five rates used to calculate the amount of child maintenance that a non-resident parent has to pay, depending on the financial circumstances of the non-resident parent or, in some cases, their partner in a new relationship:

- nil rate – gross weekly income below £7, or people in certain situations e.g. young people, prisoners;
- flat rate – gross weekly income of between £7 and £100, or they (or their partner) are in receipt of certain welfare benefits;
- reduced rate – gross weekly income of more than £100 and less than £200;
- basic rate – gross weekly income of between £200 and £800;
- basic and basic plus rates combined – gross weekly income between £800.01 and £3,000.

### 3.2 Factors included in determining child maintenance payments

There are a number of factors that affect the amount of child maintenance payable, although not of them apply to every one of the five rates. More detail can be found under the appropriate section on each rate:

- the number of qualifying children for whom child maintenance is payable (not applicable in respect of the nil or flat rates);
- number of children the non-resident parent supports in a new family i.e relevant children (basic, and basic plus rates);
- shared care, where the child stays with the non-resident parent for at least 52 nights a year (not applicable for the nil rate, or if the non-resident parent is on the flat rate because their gross weekly income is less than £100).

There can be other factors that come into play, such as where the non-resident parent pays child maintenance to more than one person with care although this is not covered in this note.

Sometimes other factors can influence the amount of gross weekly income that should be taken into account, including “special expenses” incurred by the non-resident parent and also “additional income” of the non-resident parent that is not otherwise routinely captured by the CMS (for example, taxable unearned income). For these to be considered, a “variation” request can be made to the CMS – for more information, see the Library briefing paper [Child maintenance: variations, including the new notional income criterion \(GB\)](#).

## 4. Nil rate

### 4.1 Eligibility

A non-resident parent is eligible for the nil rate if they:

- have gross weekly income (including any welfare benefits listed for the flat rate, see section 5 of this note) of less than £7; or
- are a child (see the definition of “qualifying child” in section 2); or
- are aged 16 or 17 years old and:
  - they or their partner (if they are in a couple) are receiving Universal Credit on the basis that they (or their partner) have no earned income; or
  - they are receiving Income Support, income-based Jobseeker’s Allowance or Income-related Employment and Support Allowance; or
  - they are in a couple and are included in their partner’s claim for Income Support, income-based Jobseeker’s Allowance or income-related Employment and Support Allowance; or
- receive an allowance for work-based training for young people (such as a training allowance or (in Scotland or Wales) an education maintenance allowance; or
- are resident in a care home or independent hospital, or is being provided with a care home service and/or independent healthcare service and receiving one of the qualifying benefits for the flat rate (see section 5) or has the whole or part of the cost of her/his accommodation met by a local authority”; or
- are a prisoner.<sup>4</sup>

### 4.2 Amount of child maintenance payable

As its name implies, there is no child maintenance payable for those non-resident parents eligible for the nil rate.

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<sup>4</sup> Child Poverty Action Group, Child Support Handbook 2019/20, 2019, p57

## 5. Flat rate

### 5.1 Eligibility

A non-resident parent is eligible for the flat rate if they:

- have gross weekly income of between £7 and £100 inclusive; or
- receive, or their partner who they live with receives, any of the following income-related benefits:
  - Universal Credit calculated on the basis they do not have any earned income;
  - Income Support;
  - income-based Jobseeker's Allowance;
  - income-related Employment and Support Allowance;
  - Pension Credit; or
- receive any of the following benefits themselves:
  - category A, B, C or D Retirement Pension;
  - State Pension;
  - Incapacity Benefit;
  - contribution-based Employment and Support Allowance;
  - Carer's Allowance;
  - Maternity Allowance;
  - Severe Disablement Allowance;
  - Industrial Injuries Benefit;
  - Widowed Mother's Allowance or Widowed Parent's Allowance;
  - Widow's Pension;
  - contribution-based Jobseeker's Allowance;
  - a training allowance (other than work-based learning for young people);
  - War Disablement Pension;
  - War Widow's Pension, War Widower's Pension, or Surviving Civil Partner Pension;
  - Payments under the Armed Forces Compensation Scheme;
  - a social security benefit paid by a country other than the United Kingdom.<sup>5</sup>

### 5.2 Amount of child maintenance payable

The flat rate is £7 per week. This has not been changed or adjusted (e.g. for inflation) since its introduction in 2012.

### 5.3 Reductions for shared care

If a non-resident parent is on the flat rate because they or their partner (where applicable) is in receipt of one of the listed benefits, then if the child they pay child maintenance for

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<sup>5</sup> Child Poverty Action Group, Child Support Handbook 2019/20, p58

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stays with them (i.e. the non-resident parent) for 52 nights a year or more, the amount of child maintenance payable for that child is reduced to zero. In addition, the CMS notes that the non-resident parent “also does not have to pay child maintenance for any other children who live in the same household as that child” i.e. even if the other children do not stay with the non-resident parent for 52 nights a year or more.

However, for non-resident parents who qualify for the flat rate on the basis of their gross weekly income, no allowance is made for shared care.<sup>6</sup>

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<sup>6</sup> Child Maintenance Service, [How we work out child maintenance](#), February 2017, p28



## 6. Reduced rate

### 6.1 Eligibility

If neither the nil or flat rate applies, and the non-resident parent has gross weekly income of between £100.01 and £199.99, then the reduced rate applies.

### 6.2 Amount of child maintenance payable

The reduced rate is calculated as the sum of:

- a flat rate of £7; and
- a proportion of that part of the non-resident parent's gross weekly income that exceeds £100.

The factors that determine the proportion used include the number of children that the non-resident parent has to pay child maintenance for (up to a maximum of three), and also how many "relevant children" the non-resident parent cares for. There can also be an adjustment for shared care (see section 6.3).

Where there are no "relevant children" taken into account, the rates applied to any income between £100.01 and £199.99 are:

- one child – 17%
- two children – 25%
- three children – 31%.

Where there are also "relevant children" (i.e. children for whom Child Benefit is payable to either the non-resident parent or their partner), then the appropriate rate can be found in the table below and applied to that part of the non-resident parent's gross weekly income that exceeds £100:<sup>7</sup>

		Number of qualifying children		
		1	2	3 or more
Number of relevant children	1	14.1%	21.2%	26.4%
	2	13.2%	19.9%	24.9%
	3 or more	12.4%	18.9%	23.8%

Although the proportions in the table above are higher than those used for the basic and basic plus rates (see sections 7 and 8), because the child maintenance liability of the first £100 of gross weekly income is only 7% (i.e. £7) it means that, overall, the proportion of the non-resident parent's gross weekly income that is their child maintenance liability is always lower under the reduced rate (hence its name) compared to the basic or basic plus rates for a given number of qualifying and relevant children.

So, if a non-resident parent has a gross weekly income of £150 and pays child maintenance in respect of one child (and has no relevant children), their child maintenance liability is calculated as:

<sup>7</sup> Child Maintenance Service, [How we work out child maintenance](#), February 2017, p22

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- the flat rate of £7 plus
- 17% of their gross weekly income in excess of £150 i.e. 17% of £50, which is £8.50.

So the non-resident parent's child maintenance liability is £15.50 per week. This is 10.3% of their gross weekly income.

### 6.3 Reductions for shared care

Where the child for whom the non-resident parent is paying child maintenance stays with the non-resident parent for at least 52 nights a year (i.e. on average, one night a week), then the amount of child maintenance that is payable is reduced by:

- 1/7<sup>th</sup> for 52 to 103 nights of shared care per year;
- 2/7<sup>th</sup> for 104 to 155 nights of shared care per year;
- 3/7<sup>th</sup> for 156 to 174 nights of shared care per year;
- a half for 175 or more nights of shared care per year, plus an extra £7 a week reduction for each child in this band.

However, the amount of child maintenance cannot fall below £7 per week after shared care has been taken into account.<sup>8</sup>

Where day-to-day care is shared equally, then neither person is treated as being the non-resident parent (irrespective of which person claims Child Benefit for the qualifying child(ren)) and no child maintenance is due, even if they have significantly different levels of income.<sup>9</sup>

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<sup>8</sup> Child Maintenance Service, [How we work out child maintenance](#), February 2017, pp27–28

<sup>9</sup> Child Poverty Action Group, *Child Support Handbook 2019/20*, 2019, p14

## 7. Basic rate

### 7.1 Eligibility

If neither the nil, flat or reduced rate applies, and the non-resident parent has gross weekly income of between £200 and £800, then the basic rate applies.

### 7.2 Amount of child maintenance payable

The basic rate is calculated as a proportion of the non-resident parent's gross weekly income, with the proportion depending on the number of children the non-resident parent pays child maintenance for and also how many children Child Benefit is payable to either the non-resident parent or their partner (relevant children). There can also be an adjustment for shared care (see section 7.3).

Under the basic rate, if there are any relevant children, then the non-resident parent's gross weekly income is adjusted before child maintenance is calculated. The adjustment rates are:

- one relevant child – 11% reduction;
- two relevant children – 14% reduction;
- three or more relevant children – 16% reduction.

The basic rate is then applied to the non-resident parent's gross weekly income adjusted for any relevant children. The basic rate applied depends on the number of qualifying children the non-resident parent has to pay child maintenance for:

- one qualifying child – 12%;
- two qualifying children – 16%;
- three or more qualifying children – 19%.

### 7.3 Reductions for shared care

The same rules for shared care reductions apply for the basic rate as for the reduced rate (see section 6.3).

## 8. Basic and basic plus rates

### 8.1 Eligibility

If a non-resident parent has gross weekly income between £800.01 and £3,000, then the amount of child maintenance they are liable for is calculated by applying both the basic and basic plus rates.

### 8.2 Amount of child maintenance payable

When a non-resident parent has gross weekly income above £800, then to calculate their child maintenance liability:

- the basic rate is applied to their gross weekly income up to £800; and
- the basic plus rate is applied to their gross weekly income above £800.

Before the rates are applied, first the non-resident parent's gross weekly income is adjusted if there are relevant children to be taken into account:

- one relevant child – 11% reduction;
- two relevant children – 14% reduction;
- three or more relevant children – 16% reduction.

The basic and basic plus rates are then applied to the non-resident parent's gross weekly income adjusted for any relevant children; the basic and basic plus rate applied depends on the number of qualifying children that the non-resident parent has to pay child maintenance for:

- gross weekly income up to £800 (basic rate):
  - one qualifying child – 12%;
  - two qualifying children – 16%;
  - three or more qualifying children – 19%;
- gross weekly income above £800 (basic plus rate):
  - one qualifying child – 9%;
  - two qualifying children – 12%;
  - three or more qualifying children – 15%.

The amounts of child maintenance calculated under the two rates are added together to give the non-resident parent's child maintenance liability.

### 8.3 Reductions for shared care

The same rules for shared care reductions apply for the basic rate and basic plus rate as for the reduced rate (see section 6.3).

### 8.4 Other issues relating to the basic plus rate

#### **The £3,000 gross weekly income ceiling on child support cases**

Only gross weekly income up to £3,000 can be taken into account under the statutory child maintenance scheme – as the then head of the scheme explained, the upper limit was “set at a level sufficiently high to ensure that all children benefit from a reasonable

level of maintenance and only those who are already likely to have more complicated financial arrangements are affected".<sup>10</sup>

Where a non-resident parent has gross weekly income in excess of £3,000, the courts are able to make a top-up maintenance order.

### **Why do non-resident parents with a gross weekly income over £800 pay a lower rate of child maintenance?**

It appears that higher earning non-resident parents pay a lower proportion of their income under the basic plus rates – however, the reason for the lower rates (compared to the basic rate) is to take account of the fact that, at the time of the 2012 child maintenance scheme's introduction, those who had gross weekly income above around £800 paid income tax at the rate of 40%, whereas those below around £800 paid income tax at the 20% rate.

The policy intention was to ensure that non-resident parents paid – in cash terms – around the same amount of child maintenance under the 2012 scheme (which uses gross weekly income) as under the 2003 scheme (which used net weekly income).

Using a simplified example, under the 2012 scheme:

- a non-resident parent has gross weekly income of £1,000, and pays maintenance for two children;
  - the non-resident parent pays 16% of their gross income up to £800, which is £128;
  - and 12% of their gross income over £800 (so £200), which is £24;
- the total amount of child maintenance payable is £152.<sup>11</sup>

Under the previous child maintenance scheme (the "2003 scheme"), non-resident parents with a net weekly income over £200 paid child maintenance at the basic rates of 15%, 20% or 25% of their net weekly income for one, two or three or more children respectively (there was no basic plus rate).

So, using the same situation as above, under the 2003 scheme:

- assuming the first £800 is taxed at 20%, and income over this amount is taxed at 40%, the non-resident parent has net weekly income of £760;
- child maintenance is calculated as 20% of the net weekly income of £760, which is also £152.

During the passage of the legislation to introduce the 2012 scheme, the then Government Minister responsible for child support explained that:

The purpose of the two percentage tiers [basic rate and basic plus rate] and the £800 threshold, therefore, is to match the new calculations as closely as possible in cash terms with the [then] current assessments [i.e. under the 2003 scheme], thereby smoothing the transition [from the 2003 CSA scheme to the 2012 CMS scheme]. No new dispensation and no favours are being introduced for people on higher incomes. Instead, a level playing is being retained in relation to the current maintenance. That

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<sup>10</sup> [HC Deb 15 June 2010 c361W](#) – the answer was given in reference to the 2003 statutory child maintenance scheme, where the upper limit was £2,000. However, this was increased to £3,000 under the 2012 scheme to take account of the change in using net weekly income to gross weekly income to calculate a non-resident parent's child maintenance liability. As the then head of child maintenance noted in his answer, the £3,000 figure "is broadly the same as the [then] current cap in net income terms" (see also [PBC Deb 9 October 2007 c278](#)).

<sup>11</sup> Child Maintenance Service, [How we work out child maintenance](#), February 2017, p20

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has to be done, because of the move from net to gross figures for calculation purposes.<sup>12</sup>

Of course, it is possible that the income tax rates or the thresholds at which they apply (or both) may change in the future. During the passage of the legislation for the 2012 scheme, the then Government said that the child support legislation could be amended to change the threshold point for the basic plus rate in line with a change in the threshold for the higher rate of income tax.<sup>13</sup>

No change has been made to the basic plus rate threshold since it was introduced in 2012 – although income tax allowances have changed since then<sup>14</sup> – and no changes have been made to the rates used by the CMS for the basic plus rate (or indeed the basic rate or reduced rate) since the 2012 scheme was introduced.

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<sup>12</sup> [PBC Deb 9 October 2007 c277](#)

<sup>13</sup> [PBC Deb 9 October 2007 c277](#)

<sup>14</sup> GOV.UK, [Income Tax rates and allowances: current and past](#), Guidance, 26 April 2017



## 9. Other sources of information and assistance

The CMS has a number of leaflets and factsheets on the 2012 statutory child maintenance scheme, available online at the [GOV.UK website](#).

In particular, further detail on the formulas for calculating child maintenance can be found in the CMS publication [How we work out child maintenance – A step-by-step guide](#), last updated in February 2017.

Additionally, it can be helpful to discuss the circumstances of a particular case with an organisation such as [Gingerbread](#), which is a single parent charity; their helpline is: 0808 802 0925.

## Other Library briefings on child maintenance

- [Child maintenance: income in the CMS formula \(including why gross income is used, and annual reviews\)](#)
- [Child maintenance: inclusion of earnings from "special occupations" in the 2012 CMS scheme](#)
- [Child maintenance: variations, including the new notional income criterion](#)
- [Child maintenance: enforcing payment of arrears](#)
- [Child maintenance: cases when someone lives overseas \(England & Wales\)](#)
- [Child maintenance: the multi-billion pound write-off of arrears on Child Support Agency cases](#)
- [Child maintenance: fees](#)
- [Child maintenance: new steps to improve compliance and to allow arrears to be written off](#)
- [Child maintenance: draft Child Support \(Miscellaneous Amendments\) Regulations 2019](#)

Please note that the above briefings relate to the statutory child maintenance scheme for Great Britain unless otherwise stated.

### Version control

1.0	21/6/17	Published
2.0	25/10/17	Content check to ensure it is up-to-date and typos corrected, and list of other child maintenance CBPs added.
3.0	23/9/19	Periodic update, slight revisions including reference added to Universal Credit, full template used



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